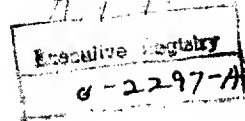


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Approved For Release 2003/06/13 : CIA-RDP80R01731R000800050043-6



20 December 1948

Mr. Elmer B. Staats
Assistant Director, Legislative Reference
Bureau of the Budget
Washington 25, D. C.

Dear Mr. Staats:

This is in answer to your letter of 2 December 1948, requesting the views of this Agency on the proposed bill entitled "Relating to the internal security of the United States", which the Department of Justice desires to present to the 81st Congress.

The first sections of the bill concern themselves with tightening up certain sections of the existing espionage laws. These changes are desirable and merely close technical loopholes in the Espionage Act. To the extent that this is done, we would be happy to support any appropriate measures which would serve to strengthen our espionage laws. We have no comment to make concerning the views of the other departments as to the best technical language to accomplish this aim.

We do feel, however, that piecemeal patching of the present statute, which has already been amended several times, is only a partial remedy. It would seem preferable if the entire Espionage Act could be revised and recodified, based upon our recent experiences during and after the war, as well as the experiences of the British under their Official Secrets Act. This could best be accomplished only after a complete and intensive study by an inter-departmental committee. In view of the highly controversial nature of these laws and their impact upon civil rights, it might be best if such a committee were under the chairmanship of an outstanding attorney or eminent member of a law school faculty. It should also include other persons of pre-eminent qualifications who would be free of the special pleading of those Government departments which would be called upon to administer the laws. This is, of course, a long range project, and, until completed, this Agency will support the present proposals insofar as they relate to amending the present Espionage Act.

This Agency has serious reservations regarding proposals contained in Section 4 of the proposed bill. This section would amend the Foreign Agents Registration Act of 1938, as amended, by requiring the registration of persons who have knowledge of or have received instruction in the espionage, counter-espionage or sabotage service or tactics of a foreign government or a foreign political party.

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The justification of this proposed section includes the purpose of discouraging further the unknown presence of potential spies and saboteurs. As such persons would, in all probability, never register under this section, it cannot add materially to the possibility of their apprehension. In fact, with this statute on the books, it will be more difficult to induce defection from the ranks of potential spies and saboteurs. Those who might have a change of heart and wish to collaborate with the security enforcement agencies of this Government, will now be further deterred by possible prosecution under this proposed provision. In addition, this section will presumably drive the most dangerous ones further underground.

Another purpose set forth in support of Section 4 is that of assisting this Government in its counter-intelligence work by acquiring the information regarding foreign espionage and sabotage systems and tactics that would be disclosed by those who register. As those who register will in all probability be those who received the information legitimately in the course of their governmental employment, the agencies for which they worked would have available all of this information.

However, the primary basis for CIA objection to this section lies in the fact that the numbers of its personnel and the names of many of the CIA personnel who would particularly be required to register is considered a point of high security, and we would have serious reservations regarding making such a roster available. Under a literal interpretation, this section would force all those with counter-intelligence experience acquired during the war or with CIA, as well as many of those in other intelligence fields, to register in compliance with its provisions. We do not feel it is advisable to enforce the registration of American citizens under threat of fine or imprisonment, merely because they have specialized knowledge or experience gained in the service of their country. As this provision could be construed to require the registration of many CIA employees, past and present, as well as many active and reserve intelligence officers of the Military Establishment, and intelligence personnel of the Departments of State and the Treasury, we feel that CIA is bound to raise objection to its passage. The proposal to exclude from its provisions all those who receive such training or information while in the Government service would be helpful, but this exception should be carefully worded so as not to leave a loophole of escape to those who receive the information in the Government service, and then put it to illegal use after they leave the Government.

This Agency's comments on the proposed Section 5 are being forwarded to you separately.

Sections 6 and 7 of the proposed bill do not apply to this Agency, and therefore we make no comment upon them.

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As a general comment, we feel that this proposed bill should be divided into the three main subjects covered and each of them considered separately. We believe there is a better chance to reach satisfactory solutions to the issues in controversy by such separate bills than by simultaneous presentation.

12/21/48 by DCI
Signed/and dispatched by hand of Mr.
Houston, Gen Counsel
S. H. MILLIKOETTER
Rear Admiral, USN
Director of Central Intelligence

Addressee - Orig. & 9 cc
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General Counsel — w/basic paper, ER 0-2297, 10 encls.
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Central Records — w/1 cc have the w/o encls
WLP/mc (20 Dec 48)

KK-0-2297-12

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20 December 1948

Mr. Elmer B. Staats
Assistant Director, Legislative Reference
Bureau of the Budget
Washington 25, D. C.

Dear Mr. Staats:

Reference is made to your letter of 2 December 1948, requesting comments upon the proposed bill "Relating to the internal security of the United States". This Agency's general comments on the proposed bill are contained in a separate letter to you dated 20 December 1948. Because we believe that there are very serious security implications arising out of Section 5 of this bill, I am making this separate comment to you and request that it not be circulated to the other agencies involved, other than to the Office of the Secretary of Defense and the White House.

Section 5 of the proposed bill amends Section 605 of the Communications Act of 1934, and from our standpoint this represents a very real problem. Insofar as this section involves wire tapping and the apprehension of criminals, this Agency, having no internal security functions, has no comment to make. However, this will certainly be the most controversial section of the bill from a public standpoint, which raises a most serious security problem for us.

It will be recalled, in connection with this section, that, in the closing days of the 80th Congress, legislation, carefully phrased from the security standpoint, was proposed jointly with the Secretary of Defense. The nature and purpose of this legislation was known to you, and was the subject of discussions between our Assistant General Counsel, Mr. Walter L. Pforzheimer, Mr. Felix Larkin of the Legal Staff of the Office of the Secretary of Defense, and Mr. Neustadt of your staff. Insofar as that proposal would now be included in a section which is perhaps the most controversial from a public standpoint in this entire bill, this Agency can only urge the greatest caution in its consideration. As I do not wish to include any further details on this subject in a memorandum, I will leave it to verbal discussion between you or your designee and the members of our General Counsel's office.

It should be noted, however, that the present proposals include the right to use the information obtained under Section 5 as evidence in

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criminal or civil proceedings in which the Government is a party. This could involve most serious security implications.

In connection with Section 5, the right to secure the intercepted material is given to the FBI, the Director of Military Intelligence, the Chief of Naval Intelligence and the Director of Intelligence of the Air Force, with no mention of CIA. The purpose for which it is obtained are purposes intimately tied in with the police power and internal security functions from which we are specifically barred by law. Therefore, it might be considered a violation of law for us to receive under this law certain information contemplated in our earlier proposals this spring in connection with the legislation mentioned above.

The view of the foregoing, we feel it would be preferable to consider any amendment to Section 605 as a separate matter, apart from the espionage amendments, so that due consideration could be given to the divergent interests involved.

Sincerely,

Signed & dispatched

R. H. HILLENKOTTER
Rear Admiral, USN
Director of Central Intelligence

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